

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 23002-AG24-0617-103
23002-AG24-0617-104

ADMINISTRATIVE CASE NO: DOI-2308-002134

IN THE MATTER OF:)
)
Mutual Underwriters, LLC)
571 Monon Blvd.)
Suite 200)
Carmel, IN 46032)
License Number: 825834)
)
Sean P. Murray)
18400 Little Chicago)
Noblesville, IN 46062)
Producer License Number: 2925410)
Surplus Lines License Number: 387889)
)
Respondents.)
)
Type of Agency Action: Enforcement)

FILED

DEC 17 2024

STATE OF INDIANA
DEPT. OF INSURANCE

**ORDER GRANTING MOTION TO RENEW AND AMEND EMERGENCY
SUSPENSION**

Indiana Department of Insurance Commissioner Holly W. Lambert, now being so advised, hereby grants Department's Motion to Renew and Amend Emergency Suspension against Respondents for an additional ninety (90) days, pursuant to Indiana Code § 4-21.5-4-5(b), or until a Final Order is issued in the Department's Statement of Charges against Respondents, whichever time period is shorter.

12/17/2024
Dated

Holly W. Lambert
Holly W. Lambert, Commissioner
Indiana Department of Insurance

Distributed to:

Robert F. Ahlgrim, Jr
Attorney for Mutual Underwriters, LLC
571 N. Monon Blvd. Suite 200
Carmel, IN 46032

J. Mark McKinzie
Attorney for Sean P. Murray
Riley Bennett Egloff LLP
500 N. Meridian Street, Suite 550
Indianapolis, IN 46204

Samantha Aldridge, Attorney
ATTN: Anthony Loy-Howell,
Senior Insurance Investigator
Indiana Department of Insurance
311 West Washington St. #103
Indianapolis, IN 46204-2787

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 23002-AG24-0617-103
23002-AG24-0617-104

ADMINISTRATIVE CASE NO: DOI-2308-002134

IN THE MATTER OF:)
)
Mutual Underwriters, LLC)
571 Monon Blvd., Ste. 200)
Carmel, IN 46032)
License Number: 825834)
)
Sean P. Murray)
18400 Little Chicago Rd.,)
Noblesville, IN 46062)
Producer License Number: 2928410)
Surplus Lines License Number: 387889)
)
Respondents.)
)
Type of Agency Action: Enforcement)
)

FILED
DEC 17 2024
STATE OF INDIANA
DEPT. OF INSURANCE

MOTION TO RENEW AND AMEND EMERGENCY SUSPENSION

The Enforcement Division of the Indiana Department of Insurance (“Department”), by counsel, Samantha Aldridge and Christopher Erickson, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5 *et seq.*, files its petition for a renewed amended emergency suspension against Mutual Underwriters, LLC (“Mutual Underwriters”) and Sean P. Murray (“Murray”), (Collectively, “Respondents”), as follows:

1. Murray holds resident insurance producer license number 2928410 originally issued November 20, 1998, and voluntarily surrendered on December 8, 2010, when Murray moved out of state; it was reactivated on June 15, 2012, and expired April 30, 2015. Murray’s license was reactivated July 14, 2017 and expires March 31, 2026.

2. Murray holds resident surplus lines producer license number 387889, originally issued May 1, 2000, and voluntarily surrendered on December 8, 2010; it was reactivated on July 10, 2012, and expired April 30, 2015. Murray's surplus lines license was reactivated October 10, 2017, and expires March 31, 2026.
3. On June 20, 2024, Murray's resident insurance producer license and resident surplus lines license were suspended by the Commissioner of the Indiana Department of Insurance ("Commissioner") on an emergency basis under the above captioned cause number.
4. On September 12, 2024, the emergency suspension against Murray's resident insurance producer license and resident surplus lines license was renewed for an additional 90 days, expiring on December 17, 2024.
5. Mutual Underwriters holds resident insurance producer organization license number 825834 since June 26, 2012. On July 30, 2016, the license was inactivated for failure to submit the renewal fee. The license was reactivated on September 15, 2017, until October 30, 2019, when the license was again inactivated for failure to submit the renewal fee. On June 22, 2020, the license was renewed and expires on September 30, 2025.
6. On June 20, 2024, Mutual Underwriters' resident insurance producer organization license was suspended by the Commissioner on an emergency basis under the above captioned cause number.
7. On September 12, 2024, the emergency suspension against Mutual Underwriter's resident insurance producer organization license was renewed for an additional 90 days and expires on December 17, 2024.
8. Murray is Mutual Underwriters' Chief Executive Officer, an owner, and the Designated Responsible Licensed Producer ("DRLP").

9. Mutual Underwriters acted as a Managing General Agent (“MGA”) for three Indiana farm mutual insurance companies while Murray was the CEO for Mutual Underwriters.
10. On or about December 1, 2021, Respondents signed an Administrative and Management Services Agreement (“Patrons Management Agreement”) with Patrons Mutual Fire Insurance Company (“Patrons”), with an effective date of January 1, 2022.
 - a. The Patrons Management Agreement was not filed with the Department.
 - b. Mutual Underwriters asserts in the Patrons Management Agreement that Mutual Underwriters possesses the “personnel and professional qualifications, knowledge, experience, and expertise to effectively administer all facets of the COMPANY’s day-to-day operations;”
 - c. The Patrons Management Agreement requires Patrons install four (4) of Mutual Underwriters’ representatives onto the Board of Directors of Patrons, after a policyholder vote. Two of the representatives were officers of Mutual Underwriters, including Murray and Scott Piper.
 - d. The Patrons Management Agreement then authorizes Patrons’ Board of Directors to manage its business and affairs, to include entering into administrative and management services agreements as are necessary for the Patron’s day-to-day business operations.
 - e. The Patrons Management Agreement appoints Mutual Underwriters to provide Patrons with administrative and management services, conducting day-to-day operations for Patrons, which include, but are not limited to: screening, processing, accepting, or rejecting applications for membership in Patrons, underwriting, policy issuance, billing, collecting premium, assessments, fees and

other amounts due from members of Patrons, coordinating inspections, administering informal complaints and disputes, administering coverage disputes, providing risk management services, claims investigations and contracting for legal defense, maintaining reinsurance, and such other business operations of Patrons incidental to these duties.

11. On or about September 1, 2022, Respondents and St. Celestine Mutual Fire Insurance Company (“St. Celestine”) signed an Administrative and Management Services Agreement (“St. Celestine Management Agreement”), as well as an Affiliation Agreement between Patrons and St. Celestine (“St. Celestine Affiliation Agreement”), with an effective date of October 1, 2022.
 - a. On October 8, 2022, the St. Celestine Management and Affiliation Agreements were filed with the Department.
 - b. The St. Celestine Management Agreement provides similar language and provisions as Patrons Management Agreement, granting day-to-day operation management to Mutual Underwriters.
 - c. The St. Celestine Affiliation Agreement requires the prior approval of the Indiana Department of Insurance. However, the St. Celestine Affiliation Agreement was entered into and became effective prior to its submission to the Department.
 - d. The St. Celestine Affiliation Agreement gives Patrons the right to propose Patrons’ representatives to the St. Celestine Board of Directors, with Patrons’ representatives composing a majority of the committees, including the Executive Committee.

- e. Further, the St. Celestine Affiliation Agreement requires, without a policyholder meeting, Murray be appointed as the Chief Executive Officer of St. Celestine by its Board of Directors.
 - f. The Department did not disapprove the September 1, 2022 St. Celestine Management and Affiliation Agreements, and the Department sent a letter indicating the same with a date of January 28, 2023.
12. On or about September 13, 2023, Respondents and S&O Farmers Mutual Insurance Company (“S&O”), entered into an Administrative and Management Services Agreement (“S&O Management Agreement”) with an effective date of October 1, 2023.
- a. On October 16, 2023, the S&O Management Agreement was filed with the Department.
 - b. The S&O Management Agreement includes similar language and requirements as that referenced above in the Patrons Management Agreement.
 - c. On November 13, 2023, Patrons and S&O entered into an Affiliation Agreement (“S&O Affiliation Agreement”), with an effective date of January 1, 2024, with terms similar to those described above in the St. Celestine Affiliation Agreement, specifically:
 - i. S&O agrees to appoint or elect board members proposed by Patrons, and the Patrons representatives constitute a majority of the Board of Directors of S&O, as well as all board committees of S&O;
 - ii. The S&O Board of Directors shall appoint Murray as the Chief Executive Officer of S&O; and
 - iii. All agreements are subject to the prior approval of the Department.

- d. The Department has not approved of the S&O Management Agreement, nor the S&O Affiliation Agreement.
13. On February 10, 2023, Murray, acting on behalf of the insurer Patrons and within his capacity as President of Patrons, submitted a request to the Department for approval to issue a surplus note (“Surplus Note”) pursuant to Indiana Code § 27-1-7-19.
- a. Patrons represented to the Department the assets backing the Surplus Note were proceeds “in the form of cash or other admitted assets having readily determinable values and liquidity satisfactory to the Department” in the amount of \$25,000,000 in accordance with Statutory Account Principles.
- b. On May 23, 2023, the Department approved the Surplus Note request based on the representations of the documentation and information provided to the Department at the time of filing.
- c. On October 2, 2023, Murray sent an email to the Department regarding the assets of the Surplus Note: “We can now confirm, the surplus supported by the U.S. Treasury assets for the initial \$25 M surplus note has been placed into Patrons Mutual Fire U.S. Bank account.”
- d. On November 8, 2023, Murray also indicated the Surplus Note was backed by a private corporate bond, CUSIP Number 65172QAA5, secured by a U.S. Treasury Bond, CUSIP Number 912810QZ4.
14. On or about March 1, 2024, Patrons, through Murray within his capacity as President of Patrons, submitted its 2023 annual financial statement to the Department in compliance with Indiana Code § 27-5.1-3-5. The annual statement included \$24,959,600 of affiliated balances attributable to the Surplus Note.

15. The Surplus Note proceeds are reported as an Affiliated Balance without readily determinable value or liquidity in contrast to representation at the time of the Surplus Note filing February 20, 2023 and approval by the Department on May 23, 2023, or as required by Statutory Accounting Principles.
16. Patrons represented to the Department that Patrons reinsures other insurance companies, including St. Celestine and S&O.
17. Affiliated Balances are not liquid assets available for engaging in reinsurance contracts.
18. An emergency exists such that an emergency order is appropriate under Indiana Code § 4-21.5-4-1 in that Respondents, while holding valid producer licenses, through their management of (3) farm mutual companies, engaged in insurance business in violation of Indiana law and have placed Indiana consumers and Indiana farm mutual companies at financial risk.
19. Respondents are per se MGAs, Indiana Code § 27-5.1-2-25(d), for three (3) Indiana farm mutual insurance companies but do not hold registration with the Department.
20. Indiana Code § 27-1-33-9 states that acts of the MGA are to be considered acts of the insurer on whose behalf the MGA is acting.
21. Indiana Code § 27-5.1-2-25(a), is an insurance law that provides those who “intend to enter into a contract for the exclusive or dominant right to manage or control a farm mutual insurance company shall file notice of the contract with the commissioner at least thirty (30) days before entering into the contract.”
22. Indiana Code § 27-5.1-2-25(d) stipulates: “[a] person that enters into a contract for the exclusive or dominant right to manage or control a farm mutual insurance company is the managing general agent (as defined in IC 27-1-33-4) of the farm mutual insurance

company and shall comply with the requirements that apply to a managing general agent under IC 27.”

23. Additionally, the agreements entered into by each farm mutual insurance company with Mutual Underwriters or with Mutual Underwriters as the MGA of Patrons, create a relationship between Mutual Underwriters and the respective farm mutual insurance company that meets the definition of an MGA as stipulated in Indiana Code § 27-1-33-4(a).
24. 760 IAC 1-52-3 requires MGAs register with the Department.
25. An MGA must structure contracts in compliance with Indiana Code § 27-1-33-7.
26. Indiana Code § 27-1-33-8(d) requires any binding authority for reinsurance contracts shall rest with an officer of the insurer, and that officer may not be affiliated with the MGA.
27. Indiana Code § 27-1-33-8(g) is an insurance law that requires “[a]n insurer shall not appoint to its board of directors an officer, a director, an employee, a subproducer, or a controlling shareholder of its MGAs.”
28. Indiana Code § 27-1-15.6-12(b)(2)(A) provides, in part, that the Commissioner may suspend an insurance producer’s license for violating an insurance law or a regulation.
29. Indiana Code § 27-1-15.6-12(b)(8) provides, in part, that the Commissioner may suspend an insurance producer’s license for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.
30. On August 28, 2024, Respondents filed written request for a hearing with the Commissioner pursuant to Indiana Code § 4-21.5-4-4. This Court set the matter for an

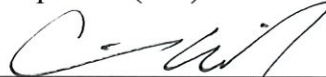
evidentiary hearing to be held on September 18, 2024. The evidentiary hearing was continued upon Mutual Underwriter and Sean Murray's motion to November 19, 2024, further continued to December 4, 2024, upon Department's motion, and then converted to a hearing on Motion for Summary Judgment upon Mutual Underwriters' request.

31. The date for the Evidentiary Hearing in the above captioned matter is not currently set; parties are awaiting an order from the December 4, 2024 hearing on Motion for Summary Judgment.
32. On December 17, 2024, the Department filed its Statement of Charges seeking permanent revocation of Respondents' insurance producer licenses under Indiana Code § 4-21.5-3.
33. Indiana Code § 4-21.5-4-5(b) provides that during the pendency of any related proceedings under Indiana Code § 4-21.5-3, the agency responsible for the proceeding may renew the order for successive ninety (90) day periods.
34. It is in the best interest of the public that Respondents' emergency suspensions continue until this matter can be resolved.
35. Respondents shall be required to cease practice as resident producers until Respondents cease managing any Indiana insurance companies and until a final order is issued in the Department's Statement of Charges as permitted under Indiana Code § 4-21.5-4-5(b).

WHEREFORE, the Enforcement Division requests the Emergency Order against Respondents be lengthened for an additional ninety (90) days, or until a Final Order is issued in the Department's Statement of Charges, whichever is shorter, and for all other necessary and proper relief.



Samantha Aldridge, Attorney No. 35162-49
Indiana Department of Insurance
311 West Washington Street
Indianapolis, IN 46204
Telephone: (317) 234-5887




Christopher Erickson, Attorney No. 35699-53
Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, IN 46204-2787
Telephone: (317) 232-2403

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the following Respondent by email and United States first class mail, postage prepaid, this 17th day of December, 2024.

Robert F. Ahlgrim Jr., Attorney for Mutual Underwriters, LLC
571 Monon Blvd
Suite 200
Carmel, IN 46032
bob.ahlgrim@mutualuw.com

J. Mark McKinzie, Attorney for Sean P. Murray
500 North Meridian Street
Suite 200
Indianapolis, IN 46204
mmckinzie@rbelaw.com
cbowles@rbelaw.com


Samantha Aldridge, #35162-49